

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JESSIE L. PEREZ, Individually, and as)
Next Friend of Jacquelyn Perez,)

Plaintiff,)

v.)

DAVID P. VIENS II, and COVENANT)
TRANSPORT, INC.,)

Defendants.)

4:09CV3206

MEMORANDUM AND ORDER

After conferring with counsel:

IT IS ORDERED:

- 1) The motion to withdraw, (filing no. 59), is granted. Stephen S. Gealy and the firm of Baylor, Evnen, Curtiss, Gritmit and Witt, LLP are hereby withdrawn as counsel for defendants David P. Viens, II, and Covenant Transportation, Inc.
- 2) The plaintiff's motion to compel, (filing no. 56), is granted in part. Since the parties agree to mediate this case, and agree that mediation should be conducted no later than the end of March:
 - a. The parties shall promptly contact an agreed upon mediator and schedule mediation to take place during the last two weeks of March. Counsel shall confer with the parties and/or their representatives before scheduling the mediation to assure availability. Absent extenuating circumstances, once the mediation is scheduled in accordance with the schedules of the chosen mediator, counsel, and the parties and/or their representatives, all mediation participants shall attend the mediation at the scheduled date and time.
 - b. Before the date of the scheduled mediation, the parties shall complete any discovery necessary to fully participate in settlement discussions.

- 3) The plaintiff's response to defendants' motion for a Rule 35 medical examination (filing no. 60), shall be filed on or before February 14, 2011, with defendants' reply due on or before February 21, 2011.
- 4) The parties shall confer regarding the defendants' need "to initiate and complete any remaining discovery necessary to properly represent the interests of the Defendants at trial." (Filing No. 63). If the parties cannot agree on whether or to what extent additional discovery should be conducted, they shall contact my chambers on or before February 21, 2011 to schedule a telephonic conference. Unless the court is notified on or before February 21, 2011 that a dispute remains regarding defendants' motion to extend the discovery deadline, (filing no. 63), the motion will be granted.

DATED this 3rd day of February, 2011.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge